



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION

445 12th STREET, S.W.

WASHINGTON, D.C. 20554

DA 99-455

News media information 202/418-0500 Fax-On-Demand 202/418-2830 Internet: <http://www.fcc.gov> <ftp.fcc.gov>

Released: March 4, 1999

Proposed Second Quarter 1999 Universal Service Contribution Factors CC Docket No. 96-45

In this Public Notice, the Common Carrier Bureau announces proposed universal service contribution factors for the second quarter of 1999.¹

The Commission adjusted the 1998 and 1999 collection amounts for the schools and libraries support mechanism in the *Fifth Order on Reconsideration* released on June 22, 1998.² Specifically, the Commission directed the Universal Service Administrative Company (USAC) to collect only as much as required by demand, but in no event more than \$325 million per quarter for the third and fourth quarters of 1998 and the first and second quarters of 1999 to support the schools and libraries universal service support mechanism.³ The Commission also directed USAC to collect for the rural health care support mechanism only as much as required by demand, but in no event more than \$25 million per quarter for the third and fourth quarters of 1998.⁴

In the *Eighth Order on Reconsideration* released on November 20, 1998, the Commission directed USAC to assume responsibility for the schools and libraries support mechanism and the rural health care support mechanism effective January 1, 1999.⁵ These programs were previously administered by the Schools and Libraries Corporation and the Rural Health Care Corporation, respectively, which have since been merged into USAC in accordance with the *Eighth Order on Reconsideration*.

Pursuant to section 54.709(a)(3) of the Commission's rules, USAC has submitted the

¹ See 47 C.F.R. § 54.709(a).

² *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96-45, 13 FCC Rcd 14915 (1998) (*Fifth Order on Reconsideration*).

³ *Id.* at 14928, para. 20, 14933, para. 29.

⁴ *Id.* at 14928, para. 21, 14933, para. 29.

⁵ See *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, *Federal-State Joint Board on Universal Service*, Third Report and Order and Fourth Order on Reconsideration, and Eighth Order on Reconsideration, CC Docket Nos. 96-45, 97-21, FCC 98-306 (rel. Nov. 20, 1998) (*Eighth Order on Reconsideration*).

following projections of second quarter 1999 demand and administrative expenses:⁶

(\$ millions)

Program	Projected Program Support	Administrative Expenses	Interest Income	Periodic True-Ups	Total Program Collection
Schools and Libraries	318.2	6.8	(35.4)	(5.8)	283.8
Rural Health Care	(see text below)	(see text below)	(3.3)	(0.5)	(3.8) ⁷
Subtotal ⁸	318.2	6.8	(38.7)	(6.3)	280.0
High Cost	433.3	1.1	(0.6)	5.4	439.2
Low Income	124.8	0.5	(0.8)	(5.0)	119.5
Subtotal	558.1	1.6	(1.4)	0.4	558.7
TOTAL⁹	876.3	8.4	(40.1)	(5.9)	838.7

The rural health care support mechanism has received approximately 2,500 initial applications for support, but only a small percentage of those applicants have completed the application process.¹⁰ Consequently, collections for the rural health care support mechanism prior to the first quarter of 1999 have exceeded disbursements, and USAC reports that the support mechanism had a balance of \$87 million at the end of 1998.¹¹ In the *First Quarter 1999 Contribution Factors Public Notice* released on December 4, 1998, the Commission directed

⁶ Federal Universal Service Programs Fund Size Projections & Contribution Base For the Second Quarter 1999 (filed Jan. 29, 1999).

⁷ As discussed in the text, *infra*, the projected program support and administrative expenses for the rural health care support mechanism will be satisfied from the existing balance in the rural health care account, and those amounts will not be collected from contributors in the second quarter of 1999. Accordingly, the "Subtotal," "Total," and "Total Program Collection" blocks in the chart do not include amounts for the rural health care support mechanism's projected program support and administrative expenses.

⁸ See note 7, *supra*.

⁹ See note 7, *supra*.

¹⁰ Federal Universal Service Programs Fund Size Projections & Contribution Base For the Second Quarter 1999 at 13.

¹¹ *Id.* at 22.

that excess contributions be credited back to contributors.¹² Specifically, the Commission applied half of the balance in the rural health care account to reduce the amount of contributions collected during the first quarter of 1999 for support mechanisms with the same contribution base as the rural health care support mechanism.¹³ The Commission directed that, once USAC has completed its evaluation of rural health care funding needs, the balance remaining in the rural health care account, net of expected 1999 funding requirements, should be used to reduce subsequent contribution factors.¹⁴

USAC requests that no contributions for the rural health care support mechanism be collected during the second quarter of 1999. USAC reports that no more than \$2.0 million will be necessary to fund completed applications for the second quarter of 1999.¹⁵ USAC estimates administrative expenses associated with the rural health care support mechanism will be \$1.2 million for the second quarter of 1999.¹⁶ We do not include these expected funding requirements in calculating contribution factors here because these amounts are not being collected in the second quarter of 1999, but instead are being funded by the remaining balance in the rural health care account.

USAC projects accumulated income interest of \$3.3 million for the second quarter of 1999.¹⁷ USAC also reports that over-collection in the 1998 calendar year requires a periodic true-up of \$0.5 million to the rural health care account.¹⁸ Consistent with section 54.709(b) of the Commission's rules, we will apply these amounts to reduce the contribution factors for support mechanisms with the same contribution base.¹⁹

Proposed Contribution Factors

¹² *Proposed First Quarter 1999 Universal Service Contribution Factors and Proposed Actions*, CC Docket No. 96-45, FCC 98-318 (rel. Dec. 4, 1998) (*First Quarter 1999 Contribution Factors Public Notice*). In the *First Quarter 1999 Contribution Factors Public Notice*, the Commission directed USAC to evaluate anticipated demand for 1999, and to consider ways to improve opportunities for eligible rural health care providers to take advantage of the support mechanism. *Id.* at 3. We expect that USAC will submit the results of its evaluation by March 5, 1999.

¹³ *Id.* at 4-6. Pursuant to the Commission's rules, funding for the schools and libraries, and rural health care support mechanisms must be based on the interstate, intrastate, and international end-user revenues derived from the provision of telecommunications services. 47 C.F.R. § 54.709(a)(1). Funding for the high cost and low-income support mechanisms must be based on the interstate and international end user revenues derived from the provision of telecommunications services. *Id.*

¹⁴ *First Quarter 1999 Contribution Factors Public Notice* at 4.

¹⁵ Federal Universal Service Programs Fund Size Projections & Contribution Base For the Second Quarter 1999 at 13.

¹⁶ *Id.* at Exhibit 5, and Appendix 8

¹⁷ *Id.* at 23, and Exhibit 5.

¹⁸ *Id.*

¹⁹ 47 C.F.R. § 54.709(b).

USAC submitted end-user telecommunications revenue for January through June 1998 based on information contained in the September 1998 Universal Service Worksheets, FCC Form 457.²⁰ The amounts are as follows:

Total Interstate, Intrastate, and International End-User Telecommunications Revenues from January 1, 1998 - June 30, 1998: \$98.672 billion

Total Interstate and International End-User Telecommunications Revenues from January 1, 1998 - June 30, 1998: \$36.979 billion

We estimate quarterly revenues by dividing the six-month revenue estimates by two. In addition, we decrease the revenue estimates by one percent to account for uncollectible contributions.²¹ Accordingly, the contribution bases for the second quarter of 1999 are as follows:

Contribution Base for Schools and Libraries and Rural Health Care:

$(\text{Interstate, International, and Intrastate} / 2) - 1\% = \text{Contribution Base}$
 $(\$98.672 \text{ billion} / 2) - 1\% = \48.843 billion

Contribution Base for High Cost and Low Income:

$(\text{Interstate and International} / 2) - 1\% = \text{Contribution Base}$
 $(\$36.979 \text{ billion} / 2) - 1\% = \18.305 billion

Using these contribution bases, the proposed contribution factors for the second quarter of 1999 are as follows:

A. Contribution Factor for Schools and Libraries and Rural Health Care:

$\text{Total Program Costs} / \text{Contribution Base} = \text{Contribution Factor}$
 $\$0.280 \text{ billion} / \$48.843 \text{ billion} = \mathbf{0.0057}$

B. Contribution Factor for High Cost and Low Income:

$\text{Total Program Costs} / \text{Contribution Base} = \text{Contribution Factor}$
 $\$0.559 \text{ billion} / \$18.305 \text{ billion} = \mathbf{0.0305}$

These factors are the proposed second quarter of 1999 universal service contribution factors. If the Commission takes no action regarding the proposed factors within the 14-day period following release of this Public Notice, the proposed factors shall be deemed approved by

²⁰ Federal Universal Service Programs Fund Size Projections & Contribution Base For the Second Quarter 1999 at 24.

²¹ See *Id.* at 25.

the Commission.²² USAC shall then use the factors to calculate universal service contributions for the second quarter of 1999.

For further information, contact Jack Zinman, Accounting Policy Division, Common Carrier Bureau, at (202) 418-7400.

²² In the *Fifth Order on Reconsideration*, the Commission revised section 54.709(a)(3) to eliminate the requirement that the proposed contribution factors and projections of demand and administrative expenses be published in the Federal Register. The Commission concluded that, in the absence of further Commission action, the proposed contribution factors and projections of demand and administrative expenses set forth in a Public Notice would be deemed approved 14 days after release of the Public Notice in which they are announced. *Fifth Order on Reconsideration*, 13 FCC Rcd at 14945, paras. 49, 50, and Appendix A.

March 4, 1999

**DISSENTING STATEMENT OF
COMMISSIONER HAROLD FURCHTGOTT-ROTH**

Re: Proposed Second Quarter 1999 Universal Service Contribution Factors; (CC Docket No. 96-45).

Today, the Common Carrier Bureau releases a Public Notice announcing the proposed universal service contribution factors for the second quarter of 1999 that will automatically go into effect if the Federal Communications Commission takes no action within 14 days. For the reasons described below, I object to the proposed contribution levels.

First, I continue to object to the excessive administrative expenses of the schools and libraries program. Under today's Notice, the administrative expenses of the schools and libraries program will be \$6.8 million for the second quarter alone. These administrative expenses are considerably higher than the administrative expenses of any and all of the other universal service programs. For example, the high cost/low income program demand is significantly greater (\$558 million which is almost twice the schools and libraries demand), but the corresponding administrative expenses are considerably smaller (only \$1.6 million, more than \$5 million less than the schools and libraries expenses). I cannot endorse the disparity -- and certainly not one of this magnitude -- between the administrative expenses of the schools and libraries program and those of the other universal service programs.

Indeed, section 2005(b)(2)(A) of Senate Bill 1768, which prompted several universal service corporate structural revisions, provides for an extremely limited administrative entity:

[T]he entity proposed by the Commission to administer the programs -- (i) is limited to implementation of the FCC rules for applications for discounts and processing the applications necessary to determine eligibility for discounts under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) as determined by the Commission; (ii) may not administer the program in any manner that requires that entity to interpret the intent of Congress in establishing the programs or interpret any rule promulgated by the Commission in carrying out the programs, without appropriate consultation and guidance from the Commission.

In light of this more limited administrative function, I fail to see the need for such excessive administrative expenses. I cannot help but wonder whether the overly bureaucratic structure adopted by the Commission, with its formal divisions and multiple committees overseeing them, has contributed in some way to these expenses.¹ I believe there is a need for more adequate safeguards and Commission oversight to protect against such excessive administrative spending by this program.²

¹ Dissenting Statement of Commissioner Harold Furchtgott-Roth Regarding Changes to the Board of Directors of the National Exchange Carrier Association, Inc; Federal-State Joint Board on Universal Service; (CC Docket Nos 97-21, 96-45), rel. November 19, 1998.

² For example, in my statement regarding the First Quarter of 1999's contribution factor, I noted the lack of appropriate oversight for the expenditure of essentially public money. In particular I asked:

Unlike the justifications and scrutiny that all agencies undergo in the appropriations process, what public official is making sure that this . . . taxpayer money is well spent? What public official is making sure that

While still excessive, I do note that these expenses are considerably less than those proposed for the first quarter of 1999. Once again, I credit Cheryl Parrino's leadership in beginning to address these issues. While further work remains, I am pleased that administrative costs seem finally to be headed in the right direction.

In addition, as I have described on several occasions, the size and scope of the current schools and libraries program is far in excess of what was envisioned by Congress and thus beyond the Commission's authority to establish.³ I believe that the universal service contributions, at least to the extent they are providing support for non-telecommunications services to non-telecommunications carriers, may not be fairly characterized as mere "fees." Some have argued that there is only one section of the act that provides funding for universal service and that any challenge to universal service necessarily sweeps in all of the programs.⁴ I point out, however, that the contributions for the schools, libraries, and rural health care support mechanisms are based not only on *interstate* but *intrastate* revenues, while the contributions for the high cost program are based solely on interstate revenues. Thus, there are separate rates to fund separate programs. As I have described on several occasions, the legality of this approach to calculating contributions is highly questionable.⁵ As I read the Communications Act, it does not permit the Commission to assess contributions for universal service support mechanisms based on intrastate revenues. Rather, the Act makes clear that the power to collect charges based on such revenues rests within the exclusive province of the States

salaries are reasonable, that "travel" does not include First Class, or that *contingency does not include Holiday bonuses?*

Dissenting Statement of Commissioner Harold Furchtgott-Roth Regarding First Quarter 1999 Universal Service Contribution Factors, rel. December 4, 1998 (emphasis added). In response, some people suggested that I had no basis for making such a prediction. I note that within days of my asking these questions, the Schools and Libraries Corporation approved a "merit pay award" program to provide end of the year bonuses for its employees as a percentage of their base salary. This for a company that had already exceeded its projected annual administrative expenses by millions of dollars.

³ See Testimony of Commissioner Harold Furchtgott-Roth Regarding Universal Service before the Ways and Means Committee of the House of Representatives. See also, Dissenting Statement of Commissioner Harold Furchtgott-Roth Regarding Federal State Joint Board on Universal Service, CC Docket 96-45, *Third Order on Reconsideration*, 12 FCC Rcd 22801 (1997); Statement of Commissioner Harold Furchtgott-Roth Regarding the Second Quarter 1998 Universal Service Contribution Factors, rel. March 20, 1998; Dissenting Statement of Commissioner Harold Furchtgott-Roth Regarding the Federal-State Joint Board Report to Congress, rel. April 10, 1998; Dissenting Statement of Commissioner Harold Furchtgott-Roth Regarding the Report to Congress in Response to Senate Bill 1768 and Conference Report on H.R. 3579, rel. May 8, 1998; Statement of Commissioner Harold Furchtgott-Roth Regarding the Common Carrier Bureau's Proposed Revisions of 1998 Collection Amounts For Schools and Libraries and Rural Health Care Universal Service Support Mechanisms, rel. May 13, 1998; Statement of Commissioner Harold Furchtgott-Roth Regarding the Common Carrier Bureau's Clarification of "Services" Eligible for Discounts to Schools and Libraries, rel. June 11, 1998; Statement of Commissioner Harold Furchtgott-Roth Regarding the Common Carrier Bureau's Third Quarter 1998 Universal Service Contribution Factors, rel. June 12, 1998.

⁴ See Testimony of General Counsel Chris Wright Regarding Universal Service before the Ways and Means Committee of the House of Representatives.

⁵ Separate Statement of Commissioner Harold Furchtgott-Roth Regarding the Second Quarter 1998 Universal Service Contribution Factors, rel. March 20, 1998; Dissenting Statement of Commissioner Harold Furchtgott-Roth Regarding the Federal-State Joint Board Report to Congress, rel. April 10, 1998.

Conclusion

I reiterate my desire to reconsider some of our legal conclusions related to the implementation of this new program, as I believe we must do. At the very least, however, we must become more involved in the oversight of this program and the burden its administrative expenses are placing on the telecommunications ratepayers.